

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

In the Matter of M.S.L.B. and J.M.L.B., Minors.

---

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JOHN BEAMISH,

Respondent-Appellant,

and

BARBARA MARTELL,

Respondent.

---

UNPUBLISHED

November 15, 2002

No. 238448

Oakland Circuit Court

Family Division

LC No. 99-624083-NA

Before: Talbot, P.J., and Neff and Fitzgerald, JJ.

PER CURIAM.

Respondent John Beamish appeals as of right from the trial court's order terminating his parental rights to the minor children pursuant to MCL 712A.19b(c)(i), (c)(ii) and (g). We affirm.

I

Respondent argues that the trial court erred by failing to cite the statutory bases for its decision to terminate his parental rights. We disagree.

MCR 5.974(G) provides, in pertinent part:

(1) The court shall state on the record or in writing its findings of fact and conclusions of law. Brief, definite, and pertinent findings and conclusions on contested matters are sufficient. . . .

\* \* \*

(3) An order terminating parental rights under the juvenile code may not be entered unless the court makes findings of fact, states its conclusions of law, and includes the statutory basis for the order.

Read together, these subsections require the trial court to state its findings of fact and conclusions of law, including the statutory basis for a termination order, either on the record or in writing.

Here, the trial court announced its findings of fact regarding the statutory grounds for termination orally on the record. Although there were some minor misstatements in identifying the statutory grounds, the court nonetheless satisfied the requirement of MCR 5.974(G)(3) by citing, with sufficient clarity, the statutory bases for its decision to terminate respondent's parental rights. The trial court's statements clearly indicate that the court was relying on MCL 712A.19b(c)(i) (conditions leading to adjudication continue to exist without reasonable likelihood of rectification), (c)(ii) (conditions arising since adjudication warrant termination), and (g) (parent failed to provide proper care and custody and there is no reasonable likelihood of becoming able to do so). The trial court's statements were sufficient to inform respondent of the basis for its decision.

## II

Respondent also argues that the trial court erred by relying on legally inadmissible evidence to establish factual matters not related to the original grounds for jurisdiction. Although respondent correctly states the applicable law, he fails to show that the trial court violated that law.

When the trial court terminates parental rights on the basis of circumstances new or different from the circumstances that led to adjudication, it must rely on legally admissible evidence to establish those circumstances. MCR 5.974(E)(1); *In re Gilliam*, 241 Mich App 133, 136-137; 613 NW2d 748 (2000). Here, the trial court did not assume jurisdiction on the basis of respondent's mental instability or substance abuse. Consequently, petitioner was required to establish those circumstances with legally admissible evidence at the termination hearing. *In re Gilliam*, *supra* at 136-137; MCR 5.974(E)(1). Respondent did not object to petitioner's evidence on the ground that it was hearsay or otherwise legally inadmissible. In order to raise an issue on appeal that the trial court erred in admitting evidence, the party must make a timely objection on the record, stating the ground of objection. *In re Weiss*, 224 Mich App 37, 39; 568 NW2d 336 (1997); MRE 103(a)(1). Respondent does not identify any instance where the court erroneously admitted evidence. Rather, the substance of respondent's argument is that the evidence was not sufficiently clear and convincing to establish grounds for termination. To the extent respondent argues that the trial court erroneously considered legally inadmissible evidence, we consider the issue waived. A party "may not merely announce a position and leave it to this Court to discover and rationalize the basis for the claim." *American Transmission v Channel 7*, 239 Mich App 695, 705; 609 NW2d 607 (2000).

## III

Respondent claims that the trial court erred in finding clear and convincing evidence of statutory grounds to terminate his parental rights. We disagree.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). This Court reviews the trial court's findings of fact for clear error. MCR 5.974(I); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court did not clearly err in finding statutory grounds for termination under §§ 19b(3)(c)(ii) and (g). The evidence showed that respondent has a long history of mental instability that interferes with his ability to focus on his children and provide for their needs. This instability was reflected in respondent's repeated criminal behavior and incarcerations, his ongoing substance abuse, his refusal to accept responsibility for his behavior, his insistence that others are to blame for his problems with petitioner and the criminal justice system, his recurring episodes of inappropriate anger toward petitioner's caseworkers, and his failure to control his behavior and focus on his children, even during weekly hour-long visits. Petitioner also established that respondent is unlikely to resolve these problems, given his refusal to accept responsibility, his long history of unstable behavior, and his narcissistic personality traits.

We agree that the trial court erred in finding that § 19b(3)(c)(i) was established. The condition that led to adjudication—the incarceration of both parents—was no longer present at the time of termination. However, this error is harmless because the court properly found that termination was warranted under §§ 19b(3)(c)(ii) and (g). *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999).

Affirmed.

/s/ Michael J. Talbot  
/s/ Janet T. Neff  
/s/ E. Thomas Fitzgerald